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3736

October 3, 2006

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450
Attn: Petition for review by the Office of Petitions

Application no. 10/075,221
Applicant: Edward L. Blendermann
Filed: November 13, 2002
For: Proprioceptive Device that Contains Nutrients for the Treatment of Statural Diseases
Examiner: John P. Lacyk
Art Unit: 3736

If my request for reconsideration is granted, thus allowing the examination to proceed, I would like for the amendments of February 2, 2006 that were not entered due to the time factor in question to now contain the discovery of new prior art that I believe will bring my application into allowance. Should this examination be allowed to proceed uninterrupted, it would be critical for the examiner to have in his possession this newly discovered prior art to be able to properly examine this application.

Therefore, I am offering this addition to the amendments that were not entered on February 2, 2006 due to an error that was explained in an answer of March 31, 2006 which was deemed an untimely response and is currently being ask for reconsideration.

I am now submitting new evidence in the form of U.S. Patents that is relevant to the issues raised in the final rejection concerning the ability of nutrients to produce electromagnetic fields that can have a therapeutic effect and thus affect muscle strength. According to MPEP 2164.05(a), "In general, if an applicant seeks to use a patent to prove the state of the art for the purposes of the enabling requirement, the patent must have an issue date earlier than the effective date of the application."

U.S Patent no. 5,188,107 (February 23, 1993) "Bi-digital O Ring Test for imaging of internal organs of a patient"

In this patent, Omura teaches us that the electromagnetic field of a tissue, glandular, medicine or food (nutrient) that is held topically in one hand can effect the strength of muscle testing being performed on the opposite hand. The mechanism of this effect (an electromagnetic field stimulating the strength of muscles) is the same as that claimed by the applicant and held as not being known in the arts by the examiner.

A quote from the abstract is as follows: "due to the electromagnetic field of the tissue of the sample interacting with an electromagnetic field of the internal organ being probed and this interaction is detected by the ability to pull apart the O ring shape..."